

REMARKS

In accordance with the above amendments, claims 1, 4-9 and 12-14 have been amended and new claims 15-19 have been added. No claim has been allowed.

It is believed that the amendments to the claims overcome all the rejections under 35 U.S.C. § 112. Examiner's comment with respect to claim 4, line 2 is not understood as it should be perfectly clear from the specification and drawings that the pivoting of the charging hopper from the deployed position (Fig. 1) to the stowed position (Fig. 2) clearly changes the overall shape of the truck body from one with a protruding charging hopper to one which is squared off in the back in the manner of a cargo container. It is also clear that an inanimate object certainly can assume different shapes as is the case, for example, of a balloon being inflated or deflated or any number of extending/retracting devices. However, in the interest of clarity, in claim 4 (and also claim 13) the word "assumes" has been deleted and replaced with "is generally in". Accordingly, it is believed that the rejection with regard to claim 4 should be withdrawn. In claim 7, line 2, the typo "aid" has been corrected to "said" thereby clarifying that claim. In claim 9, "truck" has been added before "body" in line 1 of part (b) and the language in element (c) has been clarified in a manner which should allow the remaining claims to overcome rejections under 35 U.S.C. § 112.

With respect to the merits of the claims, the rejection of claims 1-3, 6, 8-12 and 14 under 35 U.S.C. § 102(b) as being anticipated by Colin (U.S. 4,406,573) is respectfully traversed. It is well-known that in order for a reference to anticipate a claim, it must disclose each and every element in that claim. In this regard, it is clear that the Colin '573 reference falls far short of that requirement. For example, Colin does not disclose a loading hopper capable of independently moving relative to his tailgate structure as required by both of the present applicants' independent claims. See element (b) of claim 1 and element (c) of claim 9. It is further noted that the item 22 which the Examiner refers to as part of a loading hopper is nothing more than a container tipped and being emptied into a stationary loading hopper 7 and is described as "a barrel of rubbish" on line 31 of column 3. Only the barrel of rubbish 22 and the refuse packing system pivot or move relative to the tailgate in Colin '573. It is clear that the loading hopper 7, itself, is incapable of moving relative to the tailgate or the storage receptacle and so the reference fails to disclose this essential element of applicants' claims. Only a single piece stationary unit is disclosed. Therefore, any rejection of the claims under 35 U.S.C. § 102(b) fails and it is requested that this rejection be withdrawn.

It is also believed that the rejection of claims 4, 5, 7 and 13 under 35 U.S.C. § 103(a) based on Colin '573 as applied to

claims 1-3, 9 and further in view of Sjostedt (U.S. 5,678,715) also should not stand. With respect to 35 U.S.C. § 103(a), the Colin '573 reference neither discloses nor suggests changes which would provide relative motion between the tailgate and the charging hopper in the manner of the present invention. Thus, applicants believe that since the combination rejection is flawed with respect to the primary reference and any combination with Sjostedt '715 is rendered moot with respect to applicants' claims.

The additional references of record were also reviewed and found not to be material

In view of the above amendments, taken together with the remarks herein, applicants now are of the opinion that present claims should be in condition for allowance. Reconsideration, withdrawal of the rejection and allowance of the claims is respectfully requested.

Should issues remain susceptible of resolution by phone, the Examiner is invited to contact the undersigned attorney to expedite prosecution of this application.

Respectfully submitted,

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